

Form 149

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:

Rusty A. Martineau
Debtor(s)

Bankruptcy Case No.: 17-10978-TPA
Per November 7, 2017 Proceeding
Chapter: 13
Docket No.: 21 - 2
Concil. Conf.: March 13, 2018 at 01:30 PM

**ORDER OF COURT CONFIRMING PLAN AS MODIFIED
AND SETTING DEADLINES FOR CERTAIN ACTIONS**

(1.) PLAN CONFIRMATION:

IT IS HEREBY ORDERED that upon consent of the Debtor(s), the Chapter 13 Plan dated September 14, 2017 is CONFIRMED as modified at the Plan confirmation hearing. Terms of the Plan not expressly modified by this Order remain in full force and effect. A copy of this Plan was previously mailed to you. *Only those provisions which are checked below apply to this case:*

- ☐ A. For the remainder of the Plan term, the periodic Plan payment is amended to be \$ as of . Debtor(s)' counsel shall file a motion to amend the income attachment order within seven (7) days of the date of this Order.
- ☐ B. The length of the Plan is increased to a total of months. This statement of duration of the Plan is an approximation. The Plan shall not be completed until the goals of the Plan have been achieved. The total length of the Plan shall not exceed sixty (60) months.
- ☒ C. Plan confirmation is on an interim basis only as a form of adequate protection. The Trustee is authorized to distribute to secured and priority creditors with percentage fees. ***A final plan conciliation conference will be held on Mar. 13, 2018 at 01:30 PM, in Bankruptcy Courtroom, U.S. Courthouse, 17 South Park Row, Erie, PA 16501.*** If the Parties cannot resolve all disputes at the conciliation conference, a hearing will be scheduled and orally announced at the conclusion of the conference without any further written notice to any party. Parties are directed to monitor the Court's docket and read the Chapter 13 Trustee's minutes of the conciliation conference to the extent such parties desire more information regarding the outcome of the conciliation conference.
- ☐ D. Plan confirmation is subject to the resolution of all actions to determine the avoidability, priority, or extent of liens; including determination of the allowed amount of secured claims under *11 U.S.C. §506*, disputes over the amount and allowance of claims entitled to priority under *11 U.S.C. §507*, and all objections to claims.
- ☐ E. The allowed claims of general unsecured creditors shall be paid from available funds on a pro rata basis, which may represent an increase or decrease in the amount projected in the Plan.
- ☐ F. shall be paid monthly payments of \$ beginning with the Trustee's distribution and continuing for the duration of the plan term, to be applied by that creditor to it's administrative claim, budget payments and/or security deposit. These payments shall be at the third distribution level.
- ☐ G. The claims of the following creditors shall govern as to amount, classification and rate of interest (or as otherwise noted), unless the Debtor(s) successfully objects to the claim: .
- ☒ H. Additional Terms: The Claim of Capital One Auto Finance (Claim No. 1) shall not be paid, as that claim was paid in full by a third party.

(2.) IT IS FURTHER ORDERED THAT THE FOLLOWING DEADLINES ARE ESTABLISHED:

A. Objections to the Plan. Pursuant to *Fed.R.Bankr.P. 2002(b)*, this Order shall not become final for a period of twenty-eight (28) days. Any party in interest with an objection to any provision of this Confirmation Order must file a written objection within that twenty-eight (28) day period. Failure to timely object shall be deemed a waiver of all objections and an acceptance of the provisions of this confirmed Plan. The Trustee may disburse funds pursuant to this confirmation order upon its entry.

B. Applications to retain brokers, sales agents, or other professionals. If the Plan contemplates sales of assets or litigation proceeds as a source of funding, Debtor(s) shall file motion(s) to employ the necessary professionals within thirty (30) days hereof.

C. Review of Claims Docket and Objections to Claims. Pursuant to *W.PA.LBR 3021-1(c)(2)*, the Debtor or Debtor's attorney, if represented, shall review the proofs of claim filed and shall file objections to any disputed claims within ninety (90) days after the claims bar date or, for late filed or amended claims, within ninety (90) days after they are filed and served. Absent an objection, the proof of claim will govern as to the classification and amount of the claim. Objections filed after the ninety (90) days specified herein shall be deemed untimely.

D. Motions or Complaints Pursuant to §§506, 507 or 522. All actions to determine the priority, avoidability, or extent of liens, all actions pursuant to *11 U.S.C. §§506, 507 and 522* shall be filed within ninety (90) days after the claims bar date.

E. Filing Amended Plans. Within fourteen (14) days after the Bankruptcy Court resolves the priority, avoidability, or extent of a lien, or any objection to claim, the Debtor(s) shall file an amended Plan to provide for the allowed amount of the claim if the allowed amount differs from the amount stated in the plan. Debtor(s) shall also file an amended Plan within thirty (30) days after the claims bar date(s) in the event that no objection is filed and the claim(s) as filed causes the Plan to be underfunded.

(3.) ***IT IS FURTHER ORDERED THAT:***

A. After the claims objection deadline, the Plan shall be deemed amended to conform to the claims filed or otherwise allowed. If the Plan expressly modified the terms of payment to any creditor pursuant to *11 U.S.C. §1322(b)(2)*, nothing in this Order shall be construed to change the payment terms established in the Plan.

B. Any creditor who files or amends a proof of claim shall serve a copy on the Debtor(s) or counsel for the Debtor(s).

C. Any creditor whose payment changes due to variable interest rates, change in escrow, or change in monthly payments, shall notify the Trustee, Debtor(s)' counsel and Debtor(s) at least twenty-one (21) days prior to the change taking effect.

D. Debtor's counsel must file a fee application in accordance with *W.PA.LBR 2016-1* before attorney fees in excess of the "no look" provision (including retainer) will be allowed or paid.

E. The Trustee shall file a *Certificate of Default and Request for Dismissal* of the case in the event of a material Plan default. If the default involves failure to make a plan payment the case will result in dismissal without further hearing upon filing and service of an *Affidavit of Default* by the Trustee. The Trustee is not precluded from raising pre-confirmation defaults in any subsequent motion to dismiss.

F. In the event that any order is entered in this case granting relief from the automatic stay to a secured creditor, then the Trustee shall make no further disbursements to any creditor on account of any ***secured claim*** that is secured by the subject property, unless directed otherwise by further Order of Court.



Thomas P. Agresti, Judge
United States Bankruptcy Court

Dated: November 9, 2017

cc: All Parties in Interest to be served by Clerk in seven (7) days

Certificate of Notice Page 4 of 5
 United States Bankruptcy Court
 Western District of Pennsylvania

In re:
 Rusty A. Martineau
 Debtor

Case No. 17-10978-TPA
 Chapter 13

CERTIFICATE OF NOTICE

District/off: 0315-1

User: vson
 Form ID: 149

Page 1 of 2
 Total Noticed: 23

Date Rcvd: Nov 09, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 11, 2017.

db
 14694533 +Rusty A. Martineau, 917 Aris Drive, Erie, PA 16505-1207
 14694533 +Aes/chase Bank, Pob 61047, Harrisburg, PA 17106-1047
 14694535 +Capital One, Attn: Bankruptcy, Po Box 30253, Salt Lake City, UT 84130-0253
 14694536 +Capital One Auto Finance, Attn: General Correspondence/Bankruptcy, Po Box 30285,
 Salt Lake City, UT 84130-0285
 14694538 +Citibank/Best Buy, Citicorp/Centralized Bankruptcy, Po Box 790040,
 Saint Louis, MO 63179-0040
 14694539 +Citibank/The Home Depot, Citicorp Cr Srvs/Centralized Bankruptcy, Po Box 790040,
 S Louis, MO 63179-0040
 14694540 +Citicards Cbna, Citicorp Credit Svc/Centralized Bankrupt, Po Box 790040,
 Saint Louis, MO 63179-0040
 14694543 +Jh Portfolio Debt Equities LLC, 5757 Phantom Dr Ste 225, Hazelwood, MO 63042-2429
 14694547 Usaa Savings Bank, Po Box 47504, San Antonio, TX 78265
 14694548 +Wffnatbank, Po Box 94498, Las Vegas, NV 89193-4498

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center. cr

+E-mail/PDF: acg.acg.ebn@americaninfosource.com Nov 10 2017 01:48:11
 Capital One Auto Finance, a division of Capital On, c/o Ascension Capital Group,
 P.O. Box 165028, Irving, TX 75016, UNITED STATES 75016-5028
 14705980 E-mail/Text: ally@ebn.phinsolutions.com Nov 10 2017 01:45:04 Ally Bank, PO Box 130424,
 Roseville MN 55113-0004
 14694534 +E-mail/Text: ally@ebn.phinsolutions.com Nov 10 2017 01:45:04 Ally Financial,
 Attn: Bankruptcy, Po Box 380901, Bloomington, MN 55438-0901
 14695774 +E-mail/PDF: acg.acg.ebn@americaninfosource.com Nov 10 2017 01:48:22
 Capital One Auto Finance, c/o Ascension Capital Gr, P.O. Box 201347,
 Arlington, TX 76006-1347
 14694537 +E-mail/Text: bankruptcy@cavps.com Nov 10 2017 01:45:50 Cavalry Portfolio Services,
 Attn: Bankruptcy Department, 500 Summit Lake Ste 400, Valhalla, NY 10595-2322
 14694541 +E-mail/PDF: pa_dc_ed@navient.com Nov 10 2017 01:37:05 Dept Of Ed/Navient,
 Attn: Claims Dept, P.O. Box 9635, Wilkes Barr, PA 18773-9635
 14699405 E-mail/Text: mrdiscen@discover.com Nov 10 2017 01:45:04 Discover Bank,
 Discover Products Inc, PO Box 3025, New Albany, OH 43054-3025
 14694542 +E-mail/Text: mrdiscen@discover.com Nov 10 2017 01:45:04 Discover Financial, Po Box 3025,
 New Albany, OH 43054-3025
 14694544 +E-mail/Text: bnckohlsnotices@becket-lee.com Nov 10 2017 01:45:07 Kohls/Capital One,
 Kohls Credit, Po Box 3043, Milwaukee, WI 53201-3043
 14694545 +E-mail/Text: bknotification@loandepot.com Nov 10 2017 01:46:07 Loandepot.com,
 26642 Towne Centre Dr, Foothill Ranch, CA 92610-2808
 14694546 +E-mail/Text: bankruptcy@psecu.com Nov 10 2017 01:45:57 P S E C U,
 Attention: Bankruptcy, Po Box 67013, Harrisburg, PA 17106-7013
 14705644 E-mail/PDF: PRA_BK2_CASE_UPDATE@portfoliorecovery.com Nov 10 2017 01:55:00
 Portfolio Recovery Associates, LLC, POB 12914, Norfolk VA 23541
 14694807 +E-mail/PDF: PRA_BK2_CASE_UPDATE@portfoliorecovery.com Nov 10 2017 01:55:15
 PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021

TOTAL: 13

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

cr
 LoanDepot.com, LLC
 cr* +PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021
 14694549* +Aes/chase Bank, Pob 61047, Harrisburg, PA 17106-1047
 14694550* +Ally Financial, Attn: Bankruptcy, Po Box 380901, Bloomington, MN 55438-0901
 14694551* +Capital One, Attn: Bankruptcy, Po Box 30253, Salt Lake City, UT 84130-0253
 14694552* +Capital One Auto Finance, Attn: General Correspondence/Bankruptcy, Po Box 30285,
 Salt Lake City, UT 84130-0285
 14694553* +Cavalry Portfolio Services, Attn: Bankruptcy Department, 500 Summit Lake Ste 400,
 Valhalla, NY 10595-2322
 14694554* +Citibank/Best Buy, Citicorp/Centralized Bankruptcy, Po Box 790040,
 Saint Louis, MO 63179-0040
 14694555* +Citibank/The Home Depot, Citicorp Cr Srvs/Centralized Bankruptcy, Po Box 790040,
 S Louis, MO 63179-0040
 14694556* +Citicards Cbna, Citicorp Credit Svc/Centralized Bankrupt, Po Box 790040,
 Saint Louis, MO 63179-0040
 14694557* +Dept Of Ed/Navient, Attn: Claims Dept, P.O. Box 9635, Wilkes Barr, PA 18773-9635
 14694558* +Discover Financial, Po Box 3025, New Albany, OH 43054-3025
 14694559* +Jh Portfolio Debt Equities LLC, 5757 Phantom Dr Ste 225, Hazelwood, MO 63042-2429
 14694560* +Kohls/Capital One, Kohls Credit, Po Box 3043, Milwaukee, WI 53201-3043
 14694561* +Loandepot.com, 26642 Towne Centre Dr, Foothill Ranch, CA 92610-2808
 14694562* +P S E C U, Attention: Bankruptcy, Po Box 67013, Harrisburg, PA 17106-7013
 14694563* Usaa Savings Bank, Po Box 47504, San Antonio, TX 78265
 14694564* +Wffnatbank, Po Box 94498, Las Vegas, NV 89193-4498

TOTALS: 1, * 17, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

District/off: 0315-1

User: vson
Form ID: 149

Page 2 of 2
Total Noticed: 23

Date Rcvd: Nov 09, 2017

***** BYPASSED RECIPIENTS (continued) *****

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Nov 11, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 9, 2017 at the address(es) listed below:

James Warmbrodt on behalf of Creditor LoanDepot.com, LLC bkgroup@kmlawgroup.com
Office of the United States Trustee ustpregion03.pi.ecf@usdoj.gov
Rebeka Seelinger on behalf of Debtor Rusty A. Martineau rebeka@seelingerlaw.com
Ronda J. Winnecour cmecf@chapter13trusteedpa.com

TOTAL: 4